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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,337	01/14/2002	Wayne Ernest Conrad	5562-1047PCMDC	7423
1059	7590	08/11/2003		
BERESKIN AND PARR SCOTIA PLAZA 40 KING STREET WEST-SUITE 4000 BOX 401 TORONTO, ON M5H 3Y2 CANADA			EXAMINER CHIESA, RICHARD L	
			ART UNIT 1724	PAPER NUMBER

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/043,337	CONRAD ET AL.
	Examiner	Art Unit
	Richard L. Chiesa	1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 June 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-32 is/are pending in the application.
- 4a) Of the above claim(s) 24-26 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 23 and 27-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 23-32 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>13</u> .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The prior art references submitted on June 23, 2003 have been entered, considered, and made of record.

Election/Restrictions

2. Claims 24-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species. Election was made **without** traverse in Paper No. 4, filed on September 16, 2002.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 23, 27, and 32 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rench et al. Rench et al (note Figures 1-8) show a vacuum cleaner as now claimed (35 USC 102b) with a cleaning head 111, a pivotally mounted upper body portion 10, blower motor 61, and removable cyclonic 21 and filter 23 separators. It would appear that Rench et al may not explicitly state the presence of a cyclonic container. However, an inspection of Rench et al's Figures 1, and 3-7 indicates that "pod" 27 collects separated debris. Consequently, it would have been readily obvious to one of ordinary skill in the art (35 USC 103a) that Rench et al's "pod" 27 is a container for cyclonic separation stage 21.

7. Claims 23, 27, and 32 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Scalfani et al. Scalfani et al (note Figures 1-

7) show a vacuum cleaner as now claimed (35 USC 102e) with a cleaning head 12, a pivotally mounted upper body portion 32, blower motor 34, and removable cyclonic 30 and filter 104 separators. It would appear that Scalfani et al may not explicitly state the presence of a cyclonic container. However, an inspection of Scalfani et al's Figures 2-4, and 7 indicates that "dirt cup" 50 collects separated debris. Therefore, it would have been readily obvious to one having ordinary skill in the art (35 USC 103a) that Scalfani et al's "dirt cup" 50 is a container for cyclonic separation stage 30.

8. Claims 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Rench et al or Scalfani et al in view of Frey et al. Both Rench et al and Scalfani et al, as described respectively above in paragraphs 6 and 7, show a vacuum cleaner substantially as now claimed. It would appear that neither Rench et al or Scalfani et al disclose that the second separation stage is an electrostatic precipitator. In any case, Frey et al (note Figures 1 and 9) teach the well-known use of a removable electrostatic precipitator filter 80 below a blower motor 50 and downstream of a cyclone separator C in a vacuum cleaner A for the purpose of removing a wide variety of pollutants from an air stream (note col. 2, lines 20-28). It would have been obvious to one of ordinary skill in the art to employ a removable electrostatic precipitator downstream of the cyclone in either one of the Rench et al or Scalfani et al vacuum cleaners in order to facilitate the removal of all types of pollutants as taught by Frey et al.

Response to Arguments

9. Applicants' arguments with respect to claims 23, and 27-32 have been considered but are moot in view of the new grounds of rejection applied above to the newly-presented claims.

Conclusion

10. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (703) 308-3791.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (703) 308-0661.

Facsimile correspondence to Art Unit 1724 must be transmitted through (703) 872-9310. However, any facsimile correspondence in response to a final action must instead be transmitted through (703) 872-9311. These numbers are for Art Unit 1724 correspondence only.

Art Unit: 1724

Richard L. Chiesa

August 8, 2003

Richard L. Chiesa

**RICHARD L. CHIESA
PRIMARY EXAMINER
ART UNIT 1724**

Aug. 8, 2003